IN THE HIGH COURT OF JUDICATURE,

ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 227 of 2005

Between:

M/s. Sri Chenna Kesava Metal Suppliers, Korrapadu Village, Muddanuru Mandal, Kadapa District, rep by its Proprietor

G. Pedda Reddy.

..... PETITIONER

AND

1. The Commercial Tax Officer -II, Proddatur, Kadapa District.
2. The Deputy Commissioner of Commercial Taxes, Chittoor Division, Chittoor District.
3. The Deputy Commissioner of Commercial Taxes, Kadapa Division at Kadapa.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or order or direction more particularly in the nature of writ of certiorari calling for the records relating to impugned revision order passed by the 2nd respondent in G.I. No. 3113/2002-03/RC A-1/1862/2004 dt. 30-10-2004 relating to assessment year 2002-03 and quash the same as illegal, arbitrary, without jurisdiction and violative of principles of natural justice and consequently declare that the revision order passed by the 2nd respondent without serving any show cause notice is arbitrary and without jurisdiction and pass such other order or orders.

Counsel for the Petitioner: MR.BHASKAR REDDY VEMIREDDY.

Counsel for the Respondents: GP FOR COMMERCIAL TAXES.

The Court at the stage of admission made the following :

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THE HON'BLE SRI JUSTICE M.H.S.ANSARI

AND

THE HON'BLE SRI JUSTICE T.CH.SURYA RAO

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W.P.NO.227 OF 2005

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ORAL ORDER:

(Per the Hon'ble Sri Justice Ansari)

Having heard the learned counsel for respective parties, we are inclined to dispose of the instant writ petition at the admission stage with certain appropriate directions.

The main grievance of the petitioner appears to be with regard to violation of principles of natural justice. It is the contention of the petitioner that the order passed by the 2nd respondent, revising the order passed by the 1st respondent, is without notice to the petitioner and thus in violation of principles of natural justice. Various other contentions have also been raised, which are not necessary to deal with the instant writ petition.

The learned Special Standing Counsel for Central Government was requested to obtain instructions of his clients on the question of the service of notice upon the petitioner. In the impugned order there is a statement that revised show cause notice was issued to the assessee and was served on the assessee on 12-10-2004.

Today when the matter is listed, learned Standing Counsel submitted, upon instructions of his clients, that the said notice appears to have been served on some person, but not the petitioner-proprietor of the firm in question.

In such view of the matter, the impugned order is *set aside* on the ground as to violation of principles of natural justice.

Accordingly, the writ petitioner is being disposed of with directions as under:

1. The petitioner shall submit his reply to the show-cause notice before the 3rd respondent within a period of two weeks from date hereof and the 3rd respondent shall accordingly dispose of the matter in accordance with law.

2. For the aforesaid purpose, impugned order dated 30-10-2004 passed by the Deputy Commissioner (CT), Chittoor Division in GI.No.3113/2002.03, is set aside.

All other contentions are being left open to the petitioner to raise all of such questions of fact and law as may be open to him in his reply to the show cause notice and for the competent authority to consider the same on merits in accordance with law.

Writ petition is accordingly disposed of at the stage of admission. No order as to costs.

M.H.S.Ansari, J

T.Ch.Surya Rao, J

20th January, 2005.

mrk

To

1. The Commercial Tax Officer -II, Proddatur, Kadapa District.
2. The Deputy Commissioner of Commercial Taxes, Chittoor Division, Chittoor District.
3. The Deputy Commissioner of Commercial Taxes, Kadapa Division at

Kadapa.

4. Two CCs to the G.P. for Commercial Taxes, High Court of A.P., Hyderabad (OUT).

5. Two CD copies.